

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

3/21/2013 12:14 pm

U.S. DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
LONG ISLAND OFFICE

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TRUSTEES of the EMPIRE STATE CARPENTERS  
WELFARE, PENSION ANNUITY, APPRENTICESHIP,  
CHARITABLE TRUST, LABOR MANAGEMENT  
COOPERATION, and SCHOLARSHIP FUNDS,

ORDER

11-cv-5716 (ADS)(ARL)

Plaintiffs,

-vs.-

NORTHEAST INTERIORS, INC.

Defendant.  
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**APPEARANCES:**

**Selvin & Hart, P.C.**

*Attorneys for the Plaintiffs*  
1625 Massachusetts Ave, N.W.  
Suite 450  
Washington, DC 20036

By: Owen M. Rumelt, Esq., of Counsel

**NO APPEARANCE:**

Northeast Interiors, Inc.

**SPATT, District Judge.**

The Plaintiffs, the Trustees of the Empire State Carpenters Welfare, Pension Annuity, Apprenticeship, Charitable Trust, Labor Management Cooperation, and Scholarship Funds, bring this action against the Defendant Northeast Interiors, Inc. for the collection of delinquent and unpaid fringe benefit contributions and attendant damages pursuant to Section 515 of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), 29 U.S.C. § 1145. On April 3, 2012, the Court referred the matter to United States Magistrate Judge Arlene R. Lindsay for a recommendation as to whether the motion for a default judgment should be granted, and if so, to determine what relief is appropriate, including reasonable attorney’s fees

and costs. On February 21, 2013, Judge Lindsay issued a thorough Report recommending that the Court grant judgment against Northeast Interiors, Inc. and that an order be entered directing the Defendant to permit and cooperate in an audit of its books and records and to furnish to the Funds books, records and reports from July 1, 2005 through June 30, 2008 in accordance with ERISA and its obligation under the Agreements so that the Plaintiffs may calculate the benefit contributions that may be owed by the Defendant. The Report also recommended that the Plaintiffs be awarded attorney's fees in the amount of \$1,667.50 and costs in the amount of \$430, for a total monetary award of \$2,097.50. To date, no objection has been filed to Judge Lindsay's Report and Recommendation.

In reviewing a report and recommendation, a court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (citing Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). The Court has reviewed Judge Lindsay's Report and finds it be persuasive and without any legal or factual errors. There being no objection to Judge Lindsay's Report, the Court adopts the Report.

For the foregoing reasons, it is hereby:

**ORDERED**, that Judge Lindsay's Report and Recommendation is adopted in its entirety. The Court grants the Plaintiffs' motion for a default judgment against the Defendant in the amount of \$2,097.50. In addition, the Court directs the Defendant to permit the Plaintiffs to conduct an audit of the Defendant's books and records for the period from July 1, 2005 through June 30, 2008. The audit must be completed within thirty (30) days after notice of entry of

judgment. Once the audit is completed, the Plaintiffs may take appropriate steps to recover unpaid contributions, interest, liquidated damages and audit costs; and it is further

**ORDERED**, that the Clerk of the Court is directed to enter judgment in favor of the Plaintiffs as set forth above; and it is further

**ORDERED**, that the Clerk of the Court is directed to close the case.

**SO ORDERED.**

Dated: Central Islip, New York  
March 21, 2013

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*/s/ Arthur D. Spatt*  
ARTHUR D. SPATT  
United States District Judge